

## MICHIGAN CEMETERY ASSOCIATION'S OPPOSITION TO SENATE BILL 551

- SB 551 should address two purposes:

1) Create an unequivocal ability to determine the final disposition of one's own body; and

2) Establish a clear path for a respectful, but undelayed, final disposition when the deceased did not choose to determine his or her final disposition.

SB 551 does not do either

- **SB 551 fails to give Cemeteries and Crematories the same protections and privileges that Funeral Establishments are provided in having to decide who has the right to make the decisions about the deceased.** By failing to provide cemeteries and crematories the same protections and privileges as funeral establishments under this bill, **this bill fails to achieve its aspired goal in assisting the deceased and/or his/her family achieve the deceased's final resting place or disposition as it is the cemeteries and crematories, and not the funeral homes, who perform the final disposition of the deceased through burial or cremation.**
  - Under Section 3209(2), SB 551 fails to allow cemeteries and crematories from relying on a funeral representative designation while funeral establishments are provided that privilege. Why?
  - Why are funeral establishments the only entities who specifically "[are] not a guarantor that a person exercising the rights and powers under section 3206(1) has the legal authority to exercise those rights and powers"? Cemeteries and crematories also cannot possibly guarantee that either. Why exclude them from that protection?
  - Why is it that only funeral establishments "do not have the responsibility to contact or independently investigate the existence of relatives of the deceased, but may rely on information provided by family members of the deceased or by a person other than a family member that the funeral establishment reasonably believes knows the existence or location of the relatives of the deceased or the funeral representative"? By inference, why do cemeteries and crematories have to contact or independently investigate the existence of relatives of the deceased, and not simply rely upon information provided by family members of the deceased or by a person other than a family member? Why afford that privilege to funeral homes but not cemeteries and crematories?
  - Under Section 3206(4) cemeteries and crematories are arguably excluded from determining who has failed to exercise their rights to make decisions about the deceased's final arrangements because they are excluded from the notification requirement by the funeral representative or next of kin. Only funeral establishments are provided that privilege. By excluding a cemetery or crematory in Section 3206(4), a cemetery or crematory will not rely upon a funeral establishment's declaration that a person failed to exercise their rights or powers under 3206. A cemetery or crematory that is prudent and wishes to avoid possible litigation will seek their own independent verification that someone either is willing or unwilling to exercise their rights. Therefore, a body can still languish at a funeral establishment due to the cemetery's prudent decisions to verify who has the right to make decisions about the deceased. **The definition of failure to exercise the rights do not take into account the various situations where the funeral establishment is no longer involved, such as when families bring cremated remains to a cemetery for a final resting place, or when they families decide to remove or relocate cremated remains to another location within the cemetery or to another cemetery.**

- **SB 551 calls for a forty eight (48) hour rule for family members or a funeral representative to exercise their rights to make decisions under 3206 or they forfeit their right to make those decisions. This is far too short as a multitude of reasons could delay someone from making decisions. The bill also does not adequately define what affirmatively declines to exercise their rights means with that 48 hour time period.**
- **This bill further complicates rather than simplifies the definition of a spouse who may have the right to exercise decisions about the final arrangements of the deceased.** By further complicating the definition of a spouse, this can lead to awkward, uncomfortable, and resentful discussions between the spouse and funeral home, cemetery, and/or crematory concerning the relationship between the spouse and the deceased during a time of grief.
- **SB 551 fails to define what are "reasonable efforts" to locate the funeral representative or someone who shares the rights and powers to make decisions about the deceased's final arrangements.** Why not provide certain and specific measures to locate someone as deemed to be reasonable efforts in order to avoid potential litigation on this issue? What one deems reasonable efforts to locate someone may not be deemed reasonable by someone else.